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8
9 Attorneys for Plaintiffs,
10 LAFACE RECORDS LLC; WARNER BROS.
11 RECORDS INC.; UMG RECORDINGS, INC.;
12 MAVERICK RECORDING COMPANY; ARISTA
13 RECORDS LLC; and ZOMBA RECORDING LLC

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

29 LAFACE RECORDS LLC, a Delaware limited
30 liability company; WARNER BROS.
31 RECORDS INC., a Delaware corporation; UMG
32 RECORDINGS, INC., a Delaware corporation;
33 MAVERICK RECORDING COMPANY, a
34 California joint venture; ARISTA RECORDS
35 LLC, a Delaware limited liability company; and
36 ZOMBA RECORDING LLC, a Delaware
37 limited liability company,

38 Plaintiffs,

39 v.

40 MAYZABEEN KHAN,

41 Defendant.

42 CASE NO. 3:08-CV-01043-PJH

43 Honorable Phyllis J. Hamilton

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**DECLARATION OF DAWNIELL ALISE
ZAVALA IN SUPPORT OF *EX PARTE*
APPLICATION TO EXTEND TIME TO
SERVE DEFENDANT WITH PROCESS**

1 DECLARATION OF DAWNIELL ALISE ZAVALA

2 I, Dawniell Alise Zavala, declare:

3 1. I am an attorney at law licensed to practice before the Courts of the State of
4 California and the United States District Court, Northern District of California. I am an associate
5 with the law firm of Holme Roberts & Owen LLP, counsel of record for Plaintiffs. Unless otherwise
6 stated, I have personal knowledge of the following facts and, if called and sworn as a witness, could
7 and would competently testify thereto.

8 2. This Declaration is submitted in support of Plaintiffs' *Ex Parte* Application to Extend
9 Time to Serve Defendant With Process, filed June 19, 2008.

10 3. Plaintiffs filed their initial Complaint in this matter against a John Doe defendant on
11 February 21, 2008. Although Plaintiffs did not have sufficient identifying information to name the
12 defendant individually in the Complaint, Plaintiffs were able to identify the Doe defendant by an
13 Internet Protocol address assigned by a third-party Internet Service Provider ("ISP"). Accordingly,
14 Plaintiffs filed their *Ex Parte* Application for Leave to Take Immediate Discovery requesting that the
15 Court enter an order allowing Plaintiffs to serve a Rule 45 subpoena on the ISP so that Plaintiffs
16 could obtain information sufficient to identify Defendant.

17 4. On February 27, 2008, the Court issued its Order for Leave to Take Immediate
18 Discovery, which was served on the ISP along with a Rule 45 subpoena. On April 16, 2008, the ISP
19 responded to Plaintiffs' subpoena, identifying the Defendant, Mayzabeen Khan.

20 5. Because Plaintiffs did not initially know Ms. Khan's true identity, they were unable
21 to directly contact her to discuss settlement of this matter until after the Doe Complaint had been
22 filed and Plaintiffs received a subpoena response from the ISP. However, after Plaintiffs received
23 the subpoena response from the ISP, they were able to use the contact information provided by the
24 ISP and information they subsequently obtained through independent research to contact Ms. Khan
25 by telephone and email. Plaintiffs sought to contact Ms. Khan to attempt to resolve this matter
26 before filing their First Amended Complaint and attempting service, in hopes of resolving the matter
27 without the necessity of naming Ms. Khan in the lawsuit.

1 6. On April 29, 2008, Plaintiffs sent a letter to Ms. Khan notifying her of their copyright
 2 infringement claims, and encouraging her to contact Plaintiffs and attempt to resolve the dispute.

3 7. On information and belief, after at least one unsuccessful attempt to contact Ms. Khan
 4 by telephone, Plaintiffs' settlement representatives spoke to Ms. Khan via telephone on May 13,
 5 2008 and presented a settlement offer. At that time, Ms. Khan stated that she had not received
 6 Plaintiffs' April 29, 2008 letter, and was not prepared to accept the settlement offer. Plaintiffs'
 7 settlement representatives then forwarded the April 29 letter to Defendant via e-mail on May 13,
 8 2008.

9 8. On information and belief, Plaintiffs' settlement representatives then an unsuccessful
 10 attempt to contact Ms. Khan via telephone on May 20, 2008.

11 9. On information and belief, Plaintiffs settlement representatives received several
 12 telephone calls from Ms. Khan's attorney, John Stonich, on May 21, May 22, and May 23, 2008.
 13 Plaintiffs' settlement representative spoke with Ms. Khan's attorney on May 22, 2008, who indicated
 14 that Ms. Khan was unwilling and unable to settle this case for the amount offered by Plaintiffs. The
 15 parties did not reach a settlement, and Plaintiffs have not heard from Ms. Khan or her attorney Mr.
 16 Stonich since Plaintiffs' settlement representative left a voicemail for Mr. Stonich on May 23, 2008.

17 10. Accordingly, Plaintiffs filed their First Amended Complaint on June 4, 2008,
 18 amending the initial John Doe Complaint to name Ms. Khan, individually, as the Defendant.

19 11. Plaintiffs then engaged First Legal Support Services to serve Defendant with process.
 20 Attached hereto as **Exhibit A** is a true and correct copy of the Affidavit of Reasonable Diligence
 21 detailing the efforts of process server Matthew Clark to serve Defendant, dated June 19, 2008. As
 22 detailed in the Affidavit, the process server has made an attempt to serve Defendant at 20398 Clay
 23 Street , Cupertino, CA 95014 on June 16, 2008. The process server noted: "Per the current
 24 occupant, Nishat Khan, only he and his wife, Yasmin Khan, reside here. The subject is unknown."
 25 Affidavit of Reasonable Diligence, Exh. A, at 2.

26 12. In addition, on June 18, 2008, Plaintiffs conducted further database research to verify
 27 Defendant's residence. A true and correct copy of the search, which shows Defendant's address as
 28 20398 Clay Street , Cupertino, CA 95014, the address where service is being attempted, is attached

1 as **Exhibit B**. The investigation also indicated that Nishat and Yasmin Khan may be relatives of
2 Defendant – most likely her parents – living at this address. Exh. B at 2, 4. Plaintiffs will conduct a
3 more thorough investigation to determine whether Defendant is associated with any additional
4 addresses at which service may be effectuated.

5 13. Based on the foregoing, Plaintiffs are informed and believe that 20398 Clay Street ,
6 Cupertino, CA 95014 is the address where Defendant resides, and Plaintiffs will continue to attempt
7 personal service at that address and look for additional addresses if the Court grants Plaintiffs' *Ex*
8 *Parte* Application to Extend Time to Serve Defendant With Process, filed June 19, 2008. Plaintiffs
9 have not previously requested the Court to extend any service deadlines.

14. I declare under penalty of perjury under the laws of the United States of America that
the foregoing is true and correct.

12 || Executed this 19th day of June, 2008, at San Francisco, California.

Dawnieell Alise Zavala

EXHIBIT A

IN THE
UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

LAFACE RECORDS LLC, ET AL.,

Plaintiff/Petitioner

vs.
MAYZABEEN KHAN

Defendant/Respondent

Hearing Date:

CAUSE NO: **3:08-CV-01043-PJH**

DECLARATION OF NON SERVICE OF:
NOTICE TO DEFENDANT; SUMMONS; FIRST AMENDED COMPLAINT FOR COPYRIGHT INFRINGEMENT; EXHIBIT; REASSIGNMENT ORDER; CLERK'S NOTICE OF IMPENDING REASSIGNMENT TO A U.S. DISTRICT JUDGE; DECLINATION TO PROCEED BEFORE A MAGISTRATE JUDGE & REQUEST FOR REASSIGNMENT TO A U.S. DISTRICT JUDGE; REPORT ON THE FILING OR DETERMINATION OF AN ACTION OR APPEAL RE A COPYRIGHT; ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE AND ADR DEADLINES; ORDER GRANTING PLAINTIFF'S EX PARTE APPLICATION FOR LEAVE TO TAKE IMMEDIATE DISCOVERY; ORDER SETTING CASE MANAGEMENT CONFERENCE

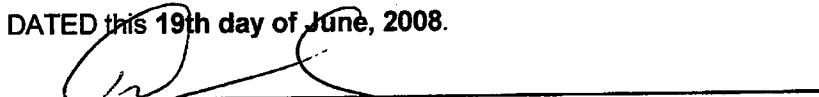
The undersigned hereby declares: That s/he is now and at all times herein mentioned was a citizen of the United States, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, and is competent to be a witness therein.

Declarant states s/he attempted to serve **MAYZABEEN KHAN** at the address of: **20398 CLAY ST , CUPERTINO, Santa Clara County, CA 95014** and was unable to effect service for the following reasons:

6/16/2008 7:42:00 PM: Per the current occupant, Nishat Khan, only he and his wife, Yasmin Khan, reside here. The subject is unknown.

Declarant hereby states under penalty of perjury under the laws of the State of California that the statement above is true and correct.

DATED this 19th day of June, 2008.


Matthew Clark, Reg. # 652, Santa Clara, CA

FOR: **HOLME ROBERTS & OWEN, LLP**

ORIGINAL PROOF OF
SERVICE

Tracking #: **5341092 SEA**



EXHIBIT B

Permissible Uses: DPPA - 1. Litigation

GLBA - 6. Persons With a Legal or Beneficial Interest re Consumer

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[Subject Summary](#) | [Others Using SSN](#) | [Address Summary \(1\)](#) | [Voter Registrations](#)
[Licenses](#) | [Personal Property](#) | [Real Property](#) | [Bankruptcies](#) | [Judgments & Liens](#)
[Relatives \(13\)](#) | [Associated Entities](#) | [Neighbors \(7\)](#) | [Sources \(2\)](#)

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Full Name	Address	County	Phone
KHAN, MAYZABEEN R	20398 CLAY ST CUPERTINO, CA 95014-4403 COUNTY: SANTA CLARA	SANTA CLARA	(408) 255-7517

ADDITIONAL PERSONAL INFORMATION

SSN	DOB	GENDER
015-68-XXXX		
(Massachusetts: 1987-1988)		

Subject Summary

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[Name Variations \(1\)](#) | [SSNs Summary \(1\)](#)
[View Name Variation Sources](#)

Name Variations
1: KHAN, MAYZABEEN R

SSNs Summary[View SSN Sources](#)

No.	SSN	State Iss.	Date Iss.	Warnings
1:	015-68-XXXX	Massachusetts	1987-1988	

Address Summary[Back To Top](#)**Address Summary - 1 records found for subject:**[View Address Sources](#)

# Address	Actions
20398 CLAY ST	Get Report
1: CUPERTINO, CA 95014-4403	View Details
COUNTY: SANTA CLARA	

Address Details**1: 20398 CLAY ST, CUPERTINO, CA 95014-4403**

Address	Dates	Phones	Actions
20398 CLAY ST CUPERTINO, CA 95014-4403 COUNTY: SANTA CLARA	05/2008	(408) 255-7517	Get Report View Neighbors
Census Data for this Geographical Region			
Median Head of Household Age: 38			
Median Income: \$88,768			
Median Home Value: \$633,800			
Median Education Level: 16 years			
Residents			
KHAN, NAZIKA R			

Potential Relatives[Back To Top](#)**Potential Relatives**

No.	Full Name	Address	Phone	Actions
	KHAN, NAZIKA R			Get Report

SSN: 014-64-XXXX (Massachusetts: 1983-1985)	20398 CLAY ST CUPERTINO, CA 95014-4403 COUNTY: SANTA CLARA	(408) 255-7517	Get Report
1. ☀ SSN was linked to more than 2 people. DOB: 11/1919			
KHAN, R • AKA: KAHN, NEISHAT • AKA: KAHN, NISHAT • AKA: KHAN, NISHAT R	20398 CLAY ST # 1 CUPERTINO, CA 95014-4403 COUNTY: SANTA CLARA		Get Report
2. • AKA: KAHN, NISHATUR R • AKA: KHAN, NISHATUR R SSN: 011-48-XXXX (Massachusetts: 1971-1973) DOB: 07/1945			
SHAFIQU'R, KHAN • AKA: SHAFIQU'R, R K • AKA: KHAN, S R • AKA: KAHN, SHAFIGER R • AKA: KAHN, SHAFIQU'R • AKA: KAHN, SHAFIQU'R R	3 CORBETT DR BURLINGTON, MA 01803-1541 COUNTY: MIDDLESEX	(781) 229-0540	Get Report
2.1. • AKA: KHAN, SHAFIQU'R R • AKA: KHAN, SHAFIQU'R R SSN: 021-58-XXXX (Massachusetts: 1978-1980) ☞ SSN was linked to more than 2 people. DOB: 07/1953 DOB: 06/1953			
KHAN, S • AKA: KAHN, M SHAHALAM • AKA: KAHN, MOHAMMAD • AKA: KAHN, MOHAMMED S • AKA: KHAN, MOHAMMED S	1164 CROMWELL AVE APT 6L BRONX, NY 10452-8732 COUNTY: BRONX	(718) 293-5489	Get Report
2.2. • AKA: KHAN, SALEM MOHAMMED • AKA: KAHN, SALIM • AKA: KHAN, SALIM SSN: 593-09-XXXX (Florida: 1982-1982) DOB: 03/1963			
KHAN, SHAHIN IQBAL • AKA: KHAN, SHAHIN T	3 CORBETT DR BURLINGTON, MA 01803-1541 COUNTY: MIDDLESEX	(781) 229-0540 (781) 397-8665	Get Report
2.4. SSN: 033-70-XXXX (Massachusetts: 1989-1990) DOB: 04/1961	15 TURNING MILL RD SHARON, MA 02067-2866 COUNTY: NORFOLK	(781) 793-9377	Get Report
ZAKARIA, KASEM A • AKA: KHAN, KASEN Z	393 SALEM ST MALDEN, MA 02148-4349 COUNTY: MIDDLESEX	(781) 322-8803	Get Report
KHAN, SOPHIA KHAN SSN: 025-78-XXXX (Massachusetts: 1995-1997) DOB: 03/1969	3 CORBETT DR BURLINGTON, MA 01803-1541 COUNTY: MIDDLESEX	(781) 229-0540	Get Report
KHAN, AZADUR R SSN: 081-86-XXXX (New York: 1997-1999) DOB: 03/1949	138 BOWDEN ST APT 103 LOWELL, MA 01852-5664 COUNTY: MIDDLESEX		Get Report
KHAN, SHADID R DOB: 07/1953	393 SALEM ST MALDEN, MA 02148-4349 COUNTY: MIDDLESEX	(781) 322-8803 (781) 397-8665	Get Report
KHAN, SOPHIA	391 SALEM ST # 393 MALDEN, MA 02148-4349 COUNTY: MIDDLESEX		Get Report
KHAN, RAJA SSN: 155-54-XXXX (New Jersey: 1973-1974) ☞ SSN was linked to more than 2 people.	3 CORBETT DR BURLINGTON, MA 01803-1541 COUNTY: MIDDLESEX	(781) 229-0540	Get Report
KHAN, YAMIN J • AKA: KHAN, YASMIN • AKA: KHAN, YASMIN J • AKA: KHAN, YASMIN JHAHAN	20398 CLAY ST # 1 CUPERTINO, CA 95014-4403 COUNTY: SANTA CLARA		Get Report
3. SSN: 014-62-XXXX (Massachusetts: 1981-1983) DOB: 1959 DOB: 06/1958 DOB: 06/1958			

Neighbors

[Neighbors](#)[Back To Top](#)

20398 CLAY ST, CUPERTINO, CA 95014-4403

Name	Address	Phone	Actions
MCKAY, PATRICIA J	20388 CLAY ST 1 CUPERTINO, CA 95014-4403 COUNTY: SANTA CLARA	(408) 257-4987	Get Report
ADRIAN, ERIN M	20408 CLAY ST CUPERTINO, CA 95014-4403 COUNTY: SANTA CLARA	(408) 257-0691	Get Report
KUBOTA, YASURO	20387 CLAY ST CUPERTINO, CA 95014-4402 COUNTY: SANTA CLARA	(408) 996-1804	Get Report
CRABTREE, LIANA E	20378 CLAY ST CUPERTINO, CA 95014-4403 COUNTY: SANTA CLARA	(408) 777-0887	Get Report
KELLER, DEBRA ANN	20377 CLAY ST CUPERTINO, CA 95014-4402 COUNTY: SANTA CLARA	(408) 255-8496	Get Report
GROZMAN, LENA M	20368 CLAY ST CUPERTINO, CA 95014-4403 COUNTY: SANTA CLARA		Get Report
OSHEA, MAURICE C	20367 CLAY ST # 1 CUPERTINO, CA 95014-4402 COUNTY: SANTA CLARA		Get Report

Sources[Back To Top](#)**Sources**

All Sources	2 Source Documents
Person Locator 1	1 Source Document
Utility Locator	1 Source Document

Key:

- ⚠ High or moderate risk indicator. These flags may prompt you to investigate further
- ✓ The most recent telephone listing as reported by the EDA source

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[Neighbors \(20\)](#) | [Associated Entities \(2\)](#) | [Sources \(14\)](#)

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Location Information

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Location Information

20398 CLAY ST 1, CUPERTINO, CA 95014-4403

Latitude: 37.314205

Longitude: -122.029706

MSA: San Jose, CA - 7400

Address Variations

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Address Variations - 2 Records Found.

Address

1. 20398 CLAY ST
CUPERTINO, CA 95014-4403
2. 20398 CLAY ST # 1
CUPERTINO, CA 95014-4403

APNs

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APNs - 1 Records Found.

Number

1. 369-38-025

Property Information

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Property Information

20398 CLAY ST 1, CUPERTINO, CA 95014-4403

Brief Description: CUPERTINO CENTER LOT 13

Property Sale Information:

Sale Price: \$365,000

Assessment Information:

Assessed Land Value: \$273,517

Assessed Improvement Value:
\$170,902

Total Assessed Value: \$444,419

Neighbors

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Neighbors - 20 Records Found.

Name	Address	SSN	Phone	DOB	DOD	Actions
KHAN, NISHAT R	20398 CLAY ST CUPERTINO, CA 95014-4403	011-48-XXXX	(408) 255-7517	07/1945		Get Report
KHAN, YASMIN J	20398 CLAY ST CUPERTINO, CA 95014-	014-62-XXXX	(408) 255-7517	1959		Get Report

	4403				
KHAN, NAZIKA	20398 CLAY ST CUPERTINO, CA 95014- 4403	014-64- XXXX		11/1919	Get Report
KHAN, MAYZABEEN R	20398 CLAY ST CUPERTINO, CA 95014- 4403	015-68- XXXX			Get Report
MCKAY, PATRICIA J	20388 CLAY ST 1 CUPERTINO, CA 95014- 4403	552-44- XXXX	(408) 257- 4987		Get Report
MCKAY, KENNETH A	20388 CLAY ST 1 CUPERTINO, CA 95014- 4403	547-38- XXXX	(408) 257- 4987	1931	Get Report
ADRIAN, ERIN	20408 CLAY ST CUPERTINO, CA 95014- 4403				Get Report
ADRIAN, EUGENE C	20408 CLAY ST CUPERTINO, CA 95014- 4403		(408) 257- 0691		Get Report
ADRIAN, SUSAN E	20408 CLAY ST CUPERTINO, CA 95014- 4403		(408) 257- 0691		Get Report
KUBOTA, YASURO	20387 CLAY ST CUPERTINO, CA 95014- 4402	625-08- XXXX		01/1957	Get Report
UDAGAWA, CHIE	20387 CLAY ST CUPERTINO, CA 95014- 4402	536-98- XXXX			Get Report
AMIT, MARIT	20387 CLAY ST CUPERTINO, CA 95014- 4402	618-25- XXXX			Get Report
AMIT, ALON	20387 CLAY ST CUPERTINO, CA 95014- 4402	623-21- XXXX			Get Report
CRABTREE, LIANA E	20378 CLAY ST CUPERTINO, CA 95014- 4403		(408) 777- 0887		Get Report
WON, MARTIN S	20378 CLAY ST CUPERTINO, CA 95014- 4403		(408) 777- 0887		Get Report
KELLER, DEBRA A	20377 CLAY ST CUPERTINO, CA 95014- 4402		(408) 255- 8496		Get Report
KELLER, MARTIN J	20377 CLAY ST CUPERTINO, CA 95014- 4402		(408) 255- 8496		Get Report
KELLER, COURTNEY D	20377 CLAY ST CUPERTINO, CA 95014- 4402	611-05- XXXX		12/1980	Get Report
GROZMAN, LENA	20368 CLAY ST CUPERTINO, CA 95014- 4403				Get Report
HEISLER, ROBERT S	20368 CLAY ST CUPERTINO, CA 95014- 4403				Get Report

Associated Entities[Back To Top](#)**Associated Entities - 2 Records Found.**

# Current Owners/Residents	Actions
1. KHAN, YASMIN	Get Report
# Current Owners	Actions
2. KHAN, NISHAT	Get Report

Sources

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Sources

All Sources	14 Source Documents
Person Locator 1	3 Source Documents
Historical Person Locator	6 Source Documents
Person Locator 2	4 Source Documents
Tax Assessor Records	1 Source Document

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Terms: **street(20398 clay street), city(cupertino), state(CA), zip(95014), radius(30)** ([Edit Search](#))

View: Full

Date/Time: Wednesday, June 18, 2008 - 9:53 PM EDT



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